

REMARKS

Claims 1-20 are pending. No claims have been canceled or withdrawn.

Support for the amendment to claim 1 is found in the as-filed specification at page 3, line 27. Support for the amendment to claim 3 is found in the as-filed specification at page 12, lines 19-20.

The abstract is objected because it includes the phrase "This invention relates to".

Applicants have provided a replacement abstract omitting this language.

Claim 20 is objected to as failing to provide proper antecedent basis.

Applicants have amended claim 20 so that it now depends from claim 1.

Before addressing the substantive rejections, it is helpful to review the as-amended invention. In essence, the present invention relates to a motion disc having a core component having sufficient stiffness to maintain intervertebral spacing and a shock-absorbing peripheral component.

Claims 1,2,4-6,12-20 stand rejected under 35 USC 102 as being anticipated by US Patent No. 5,674,296 (Bryan).

Applicants submit that the as-amended claims are patentable over Bryan. Whereas the present invention has a relatively stiff core and a relatively flexible peripheral component, Bryan discloses the opposite:

To accomplish these objects, the invention comprises a resilient body formed of a material varying in stiffness from a relatively stiff exterior portion to a relatively supple central portion.(col. 2, lines 49-53) ... Here this vertebral disc endoprosthesis 18 comprises a resilient disc body 20 having a relatively stiff annular gasket exterior portion 22 and a relatively

supple nuclear central portion 24. The annular gasket 22 can be formed from a suitable biocompatible elastomer of approximately 90 durometer hardness and the nuclear central portion 24 can be formed from a softer biocompatible elastomeric polymer of approximately 30 durometer hardness.(col. 3, line 65-col. 4, line 5)

Because Bryan discloses a relatively flexible core component, Bryan does not disclose a core component adapted to maintain intervertebral spacing. Therefore, the present rejection should be withdrawn.

Claims 3, 7-9, 10,11, 16 stand rejected under 35 USC 103 as being unpatentable over US Patent No. 5,674,296 (Bryan).

Applicants respectfully traverse. Each of these claims require a core adapted to maintain intervertebral spacing. As noted above, Bryan not disclose a core component adapted to maintain intervertebral spacing. Moreover, since it is a primary object of Bryan to provide a relatively flexible core, Bryan would dissuade the skilled artisan from supplying a central core component having sufficient stiffness to maintain appropriate vertebral spacing. Accordingly, the present rejection should be withdrawn.

Claim 3 particularly points out selected non-elastomeric (stiff) materials that are preferred materials of construction for the core component of the present invention that can maintain intervertebral spacing, and so has independent patentability.

Claim 4 particularly points out the distinction of the present invention by not only requiring stiff core materials but also elastomeric peripheral materials, and so has independent patentability.

In addition, please provide any additional extensions of time which may be necessary and charge any fees which may be due to Deposit Account No. 10-0750, but do not include any payment of issue fees.

Should there be any remaining or further questions, the Examiner is requested to place contact the undersigned directly.

Respectfully submitted,



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